

REMARKS/ARGUMENTS

The Examiner has delineated the following inventions as being patentably distinct:

Group I: Claims 11-14, drawn to a steel wire.

Group II: Claims 15-42, drawn to spring.

Applicants provisionally elect, with traverse, the invention of Group I < Claims 11-14 drawn to a steel wire.

The claims of Groups I and II are integrally linked as final product and intermediate.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. §803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions that the claims of the restricted groups are patentably distinct. Restriction between the subcombination and combination (intermediate and final product) is proper when the subcombination, i.e., intermediate, has other utility. Subcombination and combination or intermediates and final product are interdependent and should be examined together on the merits, especially wherein the sole utility of the intermediate (steel wire in the instant application) is that recited in the specification.

Different classification of subject matter to be divided is not conclusive proof of independent status and divisibility. Intermediates and final products are considered related inventions under 37 C.F.R. §1.475(b) and unity of invention between the groups exists.

Applicants respectfully traverse on the additional ground that the Office has not shown that a burden exists in searching the entire application.

Further, the M.P.E.P. §803 states as follows:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct and independent inventions.

Applicants submit that a search of all the claims would not constitute a serious burden on the Office. In fact, the International Search Authority has searched all of the claims together. As the Office has not shown any evidence that restriction should now be required when the International Preliminary Examination Report did not. The Restriction is believed to be improper. 37 C.F.R. §1.475(b) provides in relevant part that "a national stage application containing claims to different categories of invention will be considered to have unity if the claims are drawn to product, manufacture of said product and use of said product. In the instant application, the steel wire of Claims 11-14 is used in making the spring of Claims 15-42. All of the claims relate back to the steel wire.

For the reasons recited above, Applicants request that the Restriction Requirement be withdrawn.

Further, Applicants reserve the right to file a divisional application on the non-elected subject matter, if so desired, and be accorded the benefit of the filing date of the parent application.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and an early notice of such action is earnestly solicited.

Respectfully submitted,

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